

McNALLY & ASSOCIATES, LLC
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Attorneys for Defendant Cornell-Mayo Associates

Hearing Date and Time:
May 25, 2011 at 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11 Case No.
VALUE CITY HOLDINGS, INC., at al., : 08-14197 (JMP)
Debtors. :
-----X
VALUE CITY DEPARTMENT STORES, LLC, :
Plaintiff, :
v. : Adv. Pro. No.
CORNELL-MAYO ASSOCIATES, : 09-01840 (JMP)
Defendant. :
-----X

**RESPONSE OF CORNELL-MAYO ASSOCIATES TO THE
MOTION AND PROPOSED ORDER ESTABLISHING MEDIATION
PROCEDURES PURSUANT TO 11 U.S.C. § 547**

To: Honorable John M. Peck
United States Bankruptcy Judge

Cornell-Mayo Associates ("Cornell-Mayo"), by its undersigned counsel, hereby
objections to the Motion and Proposed Order and Procedures for Mediation proposed by the
Debtor in the above captioned matter, and respectfully states as follows:

1. Cornell-Mayo is the Defendant in the Adversary No. 09-01840, seeking recovery of alleged preference payments in the amount of approximately \$67,000. Cornell-Mayo is an entity located in Parsippany, New Jersey. The payments in question were for invoices for advance payment under a computer service agreement.

2. Following the filing of its answer, Cornell-Mayo promptly responded to discovery demands sent by the Plaintiff, producing an extensive history of the Debtor's and Cornell-Mayo's relationship and agreements. This documentation evidences that the payments identified by the Debtor were advance payments under a service agreement. Counsel for Cornell-Mayo has attempted to contact the Plaintiff's counsel via two (2) e-mails and at least three (3) phone calls and no response had been made by opposing counsel or anyone on behalf of the Debtor.

3. The proposed Motion provides that the Debtor has been unsuccessful in settling this action. Said statement is absolutely untrue insofar as the undersigned has received no communication or attempt to settle said Adversary Proceeding. Now, the Debtor proposes that Cornell-Mayo be required to pay for one-half ($\frac{1}{2}$) of the cost of mediation which is not reasonable or fair given the circumstances.

4. Additionally, the Debtor proposes that Cornell-Mayo be required to appear in person at the mediation. Said requirement is not reasonable given the distance between the Court and the Defendant's location in New Jersey. The costs and time required to travel to New York impose an unreasonable expense upon a party and furthers the unfair result of attempting to coerce a settlement from a Defendant whose attempts to communicate with the parties have been ignored.

5. The Defendant, Cornell-Mayo, respectfully request that if mediation is required that it be allowed to attend by telephone conference.

WHEREFORE, Cornell-Mayo respectfully request that the Motion be denied insofar as the same is unreasonable, uncostly and has not been brought in good faith.

Dated: May 18, 2011

Respectfully submitted,

McNALLY & ASSOCIATES, L.L.C.
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By: /s/ Stephen B. McNally
Stephen B. McNally, Esq.

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that I have this date served Plaintiff's attorney, Avery Samet, Esq., Storch Amini & Munves, P.C., 2 Grand Central Tower, 25th Floor, 140 East 45th Street, New York, New York, 10017, Attorneys for Plaintiff, and Office of the U.S. Trustee, 33 Whitehall Street, 21st Floor, New York, NY 10004 (attn: Gregory Zipes), with a copy of the within and foregoing RESPONSE OF CORNELL-MAYO TO THE PROPOSED ORDER ESTABLISHING MEDIATION PROCEDURES PURSUANT TO 11 U.S.C. § 547 by depositing same in the United States Mail with sufficient postage affixed thereon to assure delivery.

This 18th day of May, 2011.

McNALLY & ASSOCIATES, L.L.C.

By: /s/ Stephen B. McNally
STEPHEN B. McNALLY
Attorney for Defendant